

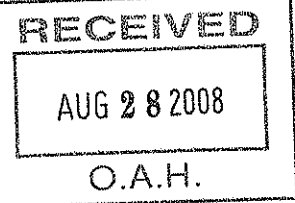
1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Escrow Agent License of:

No. 09F-BD012-BNK

3 **DISCOUNT TITLE INSURANCE**
4 **AGENCY LLC**
9707 E. Mountain View Road, #1414
Scottsdale, AZ 85258

NOTICE OF HEARING



5
6 Petitioner.

7 PLEASE TAKE NOTICE that, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 6-138
8 and 41-1092.02, the above-captioned matter will be heard through the Office of Administrative
9 Hearings, an independent agency, and is scheduled for October 9, 2008, at 9:00 a.m., at the Office of
10 Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona, (602) 542-9826 (the
11 "Hearing").

12 The purpose of the Hearing is to determine whether grounds exist to deny the escrow agent
13 license application of Petitioner.

14 Pursuant to A.R.S. § 6-138, the Superintendent of Financial Institutions for the State of
15 Arizona (the "Superintendent") delegates the authority vested in the Superintendent, whether implied
16 or expressed, to the Director of the Office of Administrative Hearings or the Director's designee to
17 preside over the Hearing as the Administrative Law Judge, to make written recommendations to the
18 Superintendent consisting of proposed Findings of Fact, Conclusions of Law, and Order. The Office
19 of Administrative Hearings has designated Thomas Shedden, at the address and phone number listed
20 above, as the Administrative Law Judge for these proceedings. Pursuant to Arizona Administrative
21 Code ("A.A.C.") Rule 2-19-104 and A.R.S. §§ 41-1092.01(H)(1) and 41-1092.08, the
22 Superintendent retains authority to enter orders granting a stay, orders on motions for rehearing, final
23 decisions pursuant to A.R.S. § 41-1092.08 or other order or process which the Administrative Law
24 Judge is specifically prohibited from entering.

25 Motions to continue this matter shall be made in writing to the Administrative Law Judge not
26 less than fifteen (15) business days prior to the date set for the Hearing. A copy of any motion to

1 continue shall be mailed or hand-delivered to the opposing party on the same date of filing with the
2 Office of Administrative Hearings.

3 A.R.S. § 41-1092.07 entitles any person affected by this Hearing to appear in person and by
4 counsel, or to proceed without counsel during the giving of all evidence, to have a reasonable
5 opportunity to inspect all documentary evidence, to cross-examine witnesses, to present evidence
6 and witnesses in support of his/her interests, and to have subpoenas issued by the Administrative
7 Law Judge to compel attendance of witnesses and production of evidence. Pursuant to A.R.S.
8 § 41-1092.07(B), any person may appear on his or her own behalf or by counsel.

9 Pursuant to A.R.S. § 41-1092.07(E), a clear and accurate record of the proceedings will be
10 made by a court reporter or by electronic means. Any party that requests a transcript of the
11 proceedings shall pay the cost of the transcript for the court reporter or other transcriber.

12 Questions concerning issues raised in this Notice of Hearing should be directed to Assistant
13 Attorney General Craig A. Raby, (602) 542-8889, 1275 West Washington, Phoenix, Arizona 85007.

14 **NOTICE OF APPLICABLE RULES**

15 On February 7, 1978, the Arizona Department of Financial Institutions (the "Department")
16 adopted A.A.C. R20-4-1201 through R20-4-1220, which were amended September 12, 2001, setting
17 forth the rules of practice and procedure applicable in contested cases and appealable agency actions
18 before the Superintendent. The hearing will be conducted pursuant to these rules and the rules
19 governing Prehearing and Hearing Procedures before the Office of Administrative Hearings,
20 pursuant to A.A.C. R2-19-101 through R2-19-122. A copy of these rules is enclosed.

21 Pursuant to A.A.C. R20-4-1209, Petitioner shall file a written answer within twenty (20) days
22 after issuance of this Notice of Hearing. The answer shall briefly state the Petitioner's position or
23 defense and shall specifically admit or deny each of the assertions contained in this Notice of
24 Hearing. If the answering Petitioner is without or is unable to reasonably obtain knowledge or
25 information sufficient to form a belief as to the truth of an assertion, Petitioner shall so state, which
26 shall have the effect of a denial. Any assertion not denied is deemed admitted. When Petitioner

1 intends to deny only a part or a qualification of an assertion, or to qualify an assertion, Petitioner
2 shall expressly admit so much of it as is true and shall deny the remainder. Any defense not raised
3 in the answer is deemed waived.

4 If a timely answer is not filed, under A.A.C. R20-4-1209(D), Petitioner will be deemed in
5 default and the Superintendent may deem the allegations in this Notice of Hearing as true and
6 admitted and the Superintendent may take whatever action is appropriate, including suspension,
7 revocation, denial of Petitioner's license or affirming an order to Cease and Desist and imposition of
8 a civil penalty or restitution to any injured party.

9 Petitioner's answer shall be mailed or delivered to the Arizona Department of Financial
10 Institutions, 2910 North 44th Street, Suite 310, Phoenix, Arizona 85018, with a copy mailed or
11 delivered to the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix,
12 Arizona 85007 and to Assistant Attorney General Craig A. Raby, Consumer Protection & Advocacy
13 Section, Attorney General's Office, 1275 West Washington, Phoenix, Arizona 85007.

14 **Persons with disabilities may request reasonable accommodations such as interpreters,**
15 **alternative format or assistance with physical accessibility.** Requests for accommodations must
16 be made as early as possible to allow time to arrange the accommodations. If accommodations are
17 required, call the Office of Administrative Hearings at (602) 542-9826.

18 COMPLAINT

19 1. Petitioner Discount Title Insurance Agency LLC ("Discount Title") is a Missouri
20 limited liability company, registered with the Arizona Corporation Commission as a foreign L.L.C.

21 2. Sheldon Gray ("Mr. Gray") is the President and co-owner of Discount Title.

22 3. Ronald Nussbeck ("Mr. Nussbeck") is the CEO and co-owner of Discount Title.

23 4. On January 29, 2008, Discount Title filed with the Department an Escrow Agent
24 License Application (the "Application") signed and notarized on November 7, 2007.

25 5. Page 1, question number 5 of the Application lists one (1) year of escrow experience
26 for both Mr. Gray and Mr. Nussbeck.

1 6. On May 19, 2008, the Department received from Discount Title an amended page 1
2 of the Application ("Amended Page 1").

3 7. The Amended Page 1, at question number 5, lists zero (0) years of escrow experience
4 for both Mr. Gray and Mr. Nussbeck.

5 8. The Personal History Statement of Mr. Gray, signed and notarized on November 7,
6 2007, at page 1, section A, question number 1, lists one (1) year of escrow experience for Mr. Gray.
7 However, the Amended Page 1 lists Mr. Gray's escrow experience as zero (0) years.

8 9. An attachment to Mr. Gray's Personal History Statement lists his escrow experience
9 as including title searches, preparing settlement statements and disbursing checks, post closing
10 accounting, and policy typing. None of the experience listed qualifies as escrow experience pursuant
11 to Arizona law.

12 10. The Department received a completed Escrow Industry Questionnaire, signed by Mr.
13 Gray on May 13, 2008, which stated that Mr. Gray had not performed any escrows.

14 11. The Personal History Statement of Mr. Nussbeck, signed and notarized on
15 January 25, 2008, at page 1, section A, question number 1, lists one (1) year of escrow experience
16 for Mr. Nussbeck. However, the Amended Page 1 lists Mr. Nussbeck's escrow experience as zero
17 (0) years.

18 12. An attachment to Mr. Nussbeck's Personal History Statement states that he has no
19 experience as an escrow agent.

20 13. On March 26, 2008, the Department received a completed Escrow Industry
21 Experience questionnaire, signed by Mr. Nussbeck on March 26, 2008, which stated that Mr.
22 Nussbeck has not performed any escrows and that he has no escrow industry experience.

23 14. On May 19, 2008, the Department received Discount Title's audited financial
24 statement for the four month period ended April 30, 2008 and the year ended December 31, 2007.

25 15. The Department's review and analysis of the audited financial statements revealed
26 that Discount Title had a net worth of \$15,594.16 as of December 31, 2007; and further revealed that

Discount Title's net worth decreased by \$1,803.64 as of April 30, 2008.

16. Based upon but not limited to the foregoing, on July 18, 2008, the Department denied the Escrow Agent Application submitted by Discount Title, pursuant to A.R.S. § 6-817(A)(3), (6) and (10). The denial was based upon the Department's concerns including, but not limited to:

- a. As evidenced by Discount Title's audited financial statement for the four month period ended April 30, 2008 and the year ended December 31, 2007, Discount Title does not have the requisite financial resources to conduct escrow business with safety to the applicant's customers or the public, which is grounds for the Superintendent to refuse to license an applicant pursuant to A.R.S. § 6-817(3);
- b. As evidenced by the Application, the Amended Page 1, and the Personal History Statements and Escrow Industry Questionnaires of Mr. Gray and Mr. Nussbeck, and the facts described herein, Mr. Gray and Mr. Nussbeck have provided misleading information regarding their experience in the escrow business, which is grounds for the Superintendent to refuse to license an applicant pursuant to A.R.S. § 6-817(6); and
- c. As evidenced by the Application, the Amended Page 1, and the Personal History Statements and Escrow Industry Questionnaires of Mr. Gray and Mr. Nussbeck, and the facts described herein, the owners of Discount Title do not have sufficient escrow experience to warrant the belief that the escrow business will itself be operated lawfully and efficiently pursuant to Arizona Revised Statutes, Title 6, Chapter 7, which is grounds for the Superintendent to refuse to license an applicant pursuant to A.R.S. § 6-817(10).

17. On August 11, 2008, the Department received a request for hearing from Discount Title, appealing the Department's denial of its Escrow Agent License Application.

GROUND FOR DENIAL

1. Pursuant to A.R.S. §§ 6-801, *et seq.*, the Superintendent has the authority and duty to

1 regulate all persons engaged in the escrow business and with the enforcement of statutes, rules, and
2 regulations relating to escrow agents.

3 2. Pursuant to A.R.S. § 6-817(A)(3), the Superintendent may deny a license to a person
4 if the Superintendent finds that an applicant is in such financial condition that the applicant cannot
5 continue in business with safety to the applicant's customers or the public.

6 3. Discount Title's conduct, as described above, constitutes conduct demonstrating that
7 Discount Title is in such financial condition that it cannot continue in business with safety to its
8 customers or the public, in violation of A.R.S. § 6-817(A)(3).

9 4. Pursuant to A.R.S. § 6-817(A)(6) the Superintendent may deny a license to a person
10 if the Superintendent finds that an applicant has knowingly made or caused to be made to the
11 Superintendent any false representation of a material fact, or has suppressed or withheld from the
12 Superintendent any information which the applicant or agent possesses, and which if submitted by
13 the applicant or agent would have caused the issuance of a license to be withheld or be grounds for
14 the suspension or revocation of a license.

15 5. Discount Title's conduct, as described above, constitutes conduct demonstrating that
16 Discount Title has knowingly made or caused to be made to the Superintendent any false
17 representation of a material fact, or has suppressed or withheld from the Superintendent any
18 information which the applicant or agent possesses, and which if submitted by the applicant or agent
19 would have caused the issuance of a license to be withheld or be grounds for the suspension or
20 revocation of a license, in violation of A.R.S. § 6-817(A)(6).

21 6. Pursuant to A.R.S. § 6-817(A)(10) the Superintendent may deny a license to a person
22 if the Superintendent finds that an applicant does not have the financial resources, experience,
23 character or competence to adequately serve the public or to warrant the belief that the business will
24 be operated lawfully, honestly, fairly and efficiently pursuant to Chapter 7.

25 7. Discount Title's conduct, as described above, constitutes conduct demonstrating that
26 Discount Title does not have the financial resources, experience, character or competence to

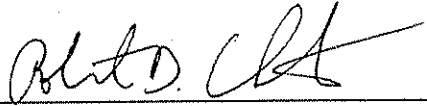
adequately serve the public or to warrant the belief that the business will be operated lawfully,
honestly, fairly and efficiently pursuant to Chapter 7, in violation of A.R.S. § 6-817(A)(10).

8. Grounds exist for the denial of Discount Title's Escrow Agent License application
pursuant to A.R.S. § 6-817[(A)(3), (6) and (10).

WHEREFORE, if after a hearing, the Superintendent makes a finding of one or more of the
above-described violations, the Superintendent may affirm the denial of Discount Title's Escrow
Agent License Application, pursuant to A.R.S. § 6-817(A)(3), (6) and (10).

DATED this 28 day of August, 2008.

Felecia A. Rotellini
Superintendent of Financial Institutions

By 
Robert D. Charlton
Assistant Superintendent of Financial Institutions

ORIGINAL of the foregoing filed this 28th day
of August, 2008, in the office of:

Felecia A. Rotellini
Superintendent of Financial Institutions
Arizona Department of Financial Institutions
ATTN: Susan L. Longo
2910 N. 44th Street, Suite 310
Phoenix, Arizona 85018
COPY mailed same date to:

Daniel Martin, Administrative Law Judge
Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007

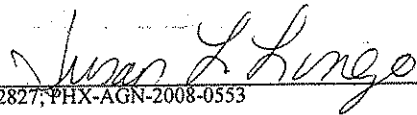
Craig Raby, Assistant Attorney General
Office of the Attorney General
1275 West Washington
Phoenix, Arizona 85007

Richard Fergus, Manager
Licensing and Consumer Affairs
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
Phoenix, Arizona 85018

1 AND COPY MAILED SAME DATE by
2 Certified Mail, Return Receipt Requested, to:

3 Discount Title Insurance Agency, LLC
4 c/o Sheldon Gray, President
5 9707 E. Mountain View Road, #1414
6 Scottsdale, AZ 85258
7 Petitioner

8 Ronald J. Nussbeck, Statutory Agent For
9 Discount Title Insurance Agency, LLC
10 9707 E. Mountain View Road, #1414
11 Scottsdale, AZ 85258

12 
13 _____
14 272827; PHX-AGN-2008-0553



ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

Felicia A. Rotellini
Superintendent of Financial Institutions

Janet Napolitano
Governor

August 28, 2008

Via Certified Mail

Sheldon Gray, President
Discount Title Insurance Agency, LLC
9707 E. Mountain View Road, #1414
Scottsdale, AZ 85258



Reference: Docket # 09F-BD012-BNK / Discount Title Insurance Agency, LLC

Dear Mr. Gray:

Please find the enclosed formal Notice of Hearing. The hearing is scheduled for **October 9, 2008, at 9:00 a.m.** at the Office of Administrative Hearings, 1400 West Washington, Suite 101, Phoenix, Arizona.

Please contact Assistant Attorney General Craig Raby at (602) 542-8889 with any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert D. Charlton".

Robert D. Charlton
Assistant Superintendent

RDC:sl

Enclosures

cc: Craig Raby, Assistant Attorney General